



Docket No.: SON-2058/YAM
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Yasumasa Mizushima et al.

Confirmation No.: 9700

Application No.: 09/980,252

Art Unit: 3627

Filed: February 21, 2002

Examiner: Ronald Laneau

For: CONCENTRATED PHYSICAL
DISTRIBUTION SYSTEM
FOR CARGO AND METHOD THEREFOR

PETITION UNDER 37 C.F.R. §1.144

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is a petition under 37 C.F.R. §1.144 requesting review of a restriction requirement made by the Examiner in the Office Action of June 14, 2004, and timely traversed within the Response to Election of Invention filed on July 12, 2004. Subsequently, the Office Action of August 13, 2004 withdrew from consideration the claims drawn the alleged non-elected invention:

Accordingly, this petition pursuant to 37 C.F.R. §1.144 is proper. See 37 C.F.R. §§1.499.

The above-identified application is an application under 35 U.S.C. §371

The above-identified application was filed under 35 U.S.C. §371 and 37 C.F.R. §§1.494 or 1.495, being based upon international application No. PCT/JP01/02675, having an International filing date of March 29, 2001. Accordingly, M.P.E.P. §1893.03(d) provides that the principles of

unity of invention are used to determine the types of claimed subject matter and the combinations of claims to different categories of invention that are permitted to be included in a single international or national stage patent application.

Unity of invention, not restriction practice, is applicable in international applications and in national stage (filed under 35 U.S.C. §371) applications. However, the restriction requirement made by the Examiner in the Office Action of June 14, 2004 is based upon 35 U.S.C. §121 and not under the principles of unity of invention.

When making a lack of unity of invention requirement, the examiner must (1) list the different groups of claims and (2) explain why each group lacks unity with each other group (i.e., why there is no single general inventive concept) specifically describing the unique special technical feature in each group. M.P.E.P. §1893.03(d).

(1) List the different groups of claims:

The restriction requirement of June 14, 2004 asserts an existence of the following independent and distinct inventions:

Claims 1-11, drawn to a physical management method, classified in 705, subclass 28.

Claims 12-20, drawn to a cargo insurance information method, classified in class 705, subclass 402.

Claims 21-27, drawn to an automatic drafting method of a draft bill of lading, classified in class 705, subclass 34.

Whereas the restriction requirement contends that claims 1-11 are drawn to a physical management method, please note that claim 5 of the alleged Group I invention is not drawn to a

method but is drawn to an apparatus. Also note that claims 6-8 of the alleged Group I invention are not drawn to a method but are drawn to a system.

Whereas the restriction requirement contends that claims 12-20 are drawn to a cargo insurance information method, please note that claims 16-20 of the alleged Group II invention are not drawn to a method but is drawn to an apparatus. Also note that claims 19-20 of the alleged Group II invention are not drawn to a method but are drawn to a system.

Whereas the restriction requirement contends that claims 21-27 are drawn to an automatic drafting method of a draft bill of lading, please note that claims 24-25 of the alleged Group III invention are not drawn to a method but is drawn to an apparatus. Also note that claims 26-27 of the alleged Group III invention are not drawn to a method but are drawn to a system.

Thus, the restriction requirement made by the Examiner in the Office Action of June 14, 2004 is improper at least for this reason.

(2) Explain why each group lacks unity with each other group:

M.P.E.P. §1893.03(d) further explains that a group of inventions is considered linked to form a single general inventive concept where there is a technical relationship among the inventions that involves at least one common or corresponding special technical feature. The expression “special technical feature” is defined as meaning those technical features that define the contribution which each claimed invention, considered as a whole, makes over the prior art.

However, the restriction requirement of June 14, 2004 fails to explain why each group lacks unity with each other group. Thus, the restriction requirement made by the Examiner in the Office Action of June 14, 2004 is improper at least for this reason.

Applicant requests that the Commissioner exercise his supervisory authority under 37 C.F.R. §1.144 and withdraw this improper restriction requirement.

No fee is believed to be required in connection with this petition.

If any fee is required or any overpayment made, the Commissioner is hereby authorized to charge the fee or credit the overpayment to Deposit Account # 18-0013.

Dated: August 31, 2005

Respectfully submitted,

By 

Ronald P. Kananen

Registration No.: 24,104

RADER, FISHMAN & GRAUER PLLC

1233 20th Street, N.W.

Suite 501

Washington, DC 20036

(202) 955-3750

Attorney for Applicant